

REMARKS

The present application is a continuation application of parent application U.S.S.N. 09/935,921. Claims 1-12 were pending in the parent application and claims 1-3 and 8-12 were allowed. During prosecution of the parent application, claims 4-7 were cancelled, leaving allowed claims 1-3 and 8-12 pending. Accordingly, claims 4-7 above were originally pending in the parent application.

Claims 4-7 and 13-48 are pending in the present continuation application. Claims 4-7 are being amended as further discussed below. In addition, new claims 13-48 are being added. No new matter has been added by virtue of the amendments made to claims 4-7 or by the addition of claims 13-48.

The specification has been amended to correct certain typographic errors and to better define the nature of the present invention. Such errors were inadvertent and made in good faith. No new matter has been added by virtue of the amendments made to the specification.

Claims 4-7 were rejected in the parent application under 35 U.S.C. § 102(b) over US 5,165,913 ("Hill"). Applicant respectfully traverses this rejection in view of the foregoing amendments and following remarks.

Claims 4-7 are patentable over Hill because Hill fails to disclose each and every element of claims 4-7. Specifically, Hill fails to disclose, either explicitly or inherently, a **monofilament** dental tape. Instead, Hill discloses **multifilament** dental tape. For example, Hill discloses at column 5, lines 5-23:

The unique construction of the floss and loading of cleaners, active ingredients and conditioners in the space around

each of the nylon fibers allows loading of these substances from 10 to over 100% by weight of the floss. **The "loaded" floss tends to "splay" (open up)**, when pressure is applied to the floss, i.e., the pressure required to fit the floss between teeth and/or, after the floss is positioned between teeth, the pressure applied during flossing. When the floss is splayed, the loaded substances are released and continue to be released during the sawing motion of flossing. This releasing action supplements the cleaning action of flossing by releasing cleaners to work with the floss.

In a preferred embodiment, the present invention may be defined as an interproximal delivery system comprising:

- a. **floss having from between two and 12 strands**, each containing between about 100 and 800 filaments with a denier between 300 and about 1200, and . . .
(Emphasis added).

Nowhere does Hill disclose, either explicitly or inherently, a *monofilament* dental tape.

In contrast, method claims 4-7 as amended relate to the use of a coated ***monofilament*** dental tape. During prosecution of the parent application, the Examiner stated in the Office Action of 18 March 2003, that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense. Applicant contends that the structure recited does affect the method in a manipulative sense, as detailed below.

The method claims recite the use of a novel construct – namely a coated monofilament dental tape, wherein the coating has specific properties, all of which lead to the uses being claimed in the method claims. The dental tape works in the claimed methods because of the coating defined in the claim language, which, as set forth in the specification and the claims, is transferred from the tape to the areas of the mouth that are cleaned with the tape – so as to provide the beneficial

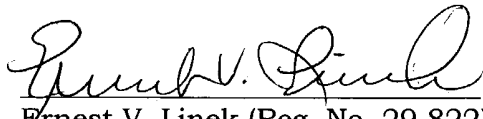
results defined in the method claims. This is akin to a drug treatment claim, where the patentability of the method of treating a disease is not the simple act of administering the drug, but is instead predicated upon the novelty of the drug being administered. The same is true of these method claims – the patentability lies in the novelty of the coated monofilament dental tape, not in the step of “flossing” with the product. Reconsideration of the rejection of the method claims is respectfully requested.

FEE AUTHORIZATION

Please charge all excess claim fees and any other fees due in connection with this submission to our Deposit Account – No. 19-0733.

Should the Examiner wish to discuss any of the amendments and/or remarks made herein, the undersigned attorney would appreciate the opportunity to do so. Thus the Examiner is hereby invited to call the undersigned, collect at the number shown below.

Respectfully submitted,



Ernest V. Linek (Reg. No. 29,822)
Attorney for Applicant
BANNER & WITCOFF, LTD
28 State Street, 28th Floor
Boston, MA 02109-1775
Tel: (617) 720-9600
Fax: (617) 720-9601
E-Mail:
ELinek@bannerwitcoff.com

Date: 02 July 2003